

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Oakwood Forest Christian Church	)	
	District 11, Map 61K, Group C, Control Map 61K,	)	
	Parcel 10, Special Interest 001	)	Sullivan County
	<i>Claim of Exemption</i>	)	

INITIAL DECISION AND-ORDER

Statement of the Case

This is an appeal pursuant to Tenn. Code Ann. section 67-5-212(b)(2) from a denial of an application for exemption of the subject property from ad valorem taxation. The application was filed with the State Board of Equalization ("State Board") on May 1, 2006. By letter dated June 30, 2006, State Board staff attorney Emily Bennett notified the applicant of the denial on the ground that "[v]acant and unused property does not qualify for exemption." Oakwood Forest Christian Church ("OFCC"), the applicant and owner of the property in question, appealed the staff attorney's initial determination to the State Board on August 29, 2006. The undersigned administrative judge conducted a hearing of this matter on September 19, 2006 in Greeneville. OFCC was represented by Assistant Treasurer Larry A. Munsey and Senior Minister Marlon James. The Sullivan County Assessor of Property did not attend or participate in the hearing.

Findings of Fact and Conclusions of Law

The 0.80-acre parcel in question is located at 905 North Eastman Road in Kingsport, adjoins OFCC's sanctuary and related facilities on East Sevier Avenue. In need of additional parking area, OFCC purchased the subject property (as improved) on May 23, 2002 for \$400,000. The ground floor of the two-story building on the lot had formerly housed a hardware store; the second floor consisted of ten dilapidated apartment units – seven of which were still occupied on the date of sale.

\* OFCC first applied for exemption of the subject parcel in August of 2002. Except for the upstairs portion of the building and a proportionate amount of the underlying land, the State Board approved that application.<sup>1</sup>

Mindful of the unsafe condition of the apartments, and uncomfortable with commercial use of this property, OFCC ordered all of the units to be vacated by December 31, 2005. Thereafter the utilities were disconnected and "no trespassing" signs were posted on the premises.

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<sup>1</sup>Generally, leased property is not eligible for exemption under the terms of Tenn. Code Ann. section 67-5-212(a).



Mr. Munsey stated on the application under review that "there are no plans to use (the apartments) in the future" and that there was "no activity" in them. But in an attachment to the appeal form, Mr. Munsey declared that these apartments were being used "for storage of appliances that we make available to members of our congregation and to the needy as a part of the ongoing ministry" of the Church. In his words, OFCC had "failed to provide adequate details" on the second application for exemption.

Article II, section 28 of the Tennessee Constitution authorizes, but does not require, the legislature to exempt from taxation property which is "used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has decreed that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists....

Tenn. Code Ann. section 67-5-212(a)(1)(A).

The phrase *purely and exclusively* in the quoted statute has been construed to mean that the property in question must be put to a use which is "directly incidental to or an integral part of" an exempt purpose of the institution. Methodist Hospitals of Memphis v. Assessment Appeals Commission, 669 S.W.2d 305 at 307 (Tenn. 1984).

In this state, property tax exemptions are liberally construed in favor of qualifying institutions such as OFCC. See, e.g., Christian Home for the Aged, Inc. v. Assessment Appeals Commission, 790 S.W.2d 288, 291 (Tenn. Ct. App. 1990). Nonetheless, as the party appealing from the initial determination on its application for exemption, OFCC has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

There is no doubt that storage of items reasonably necessary for the conduct of worship services and other religious functions is an exemptible use of church property. However, according to Mr. Munsey's testimony, the old appliances (e.g., stoves; refrigerators; air conditioners) being "stored" on the second floor of the subject building are those which belonged to the prior owners and remained in the apartments when they were finally vacated. Only in "a couple of instances," he acknowledged, has OFCC actually used or donated one of those appliances that were left behind" because it was not worth the time or money. Hopefully, Pastor James added, volunteers can be recruited to cart those items off to the dump.

By its own admission, then, OFCC has not moved any articles into the vacated apartments. Nor does the evidence of record indicate that retention of the leftover appliances substantially furthers any church-related ministry or purpose. Given these considerations, the administrative judge is not persuaded that the State Board designee wrongfully denied exemption of the property in question.



Order

It is, therefore, ORDERED that the initial determination of the State Board's staff attorney be affirmed.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 6th day of October, 2006.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Larry A. Munsey, Asst. Treasurer, Oakwood Forest Christian Church  
Bob Icenhour, Sullivan County Assessor of Property